

BROWNFIELD LAND USE ORDINANCE

ARTICLE I. PURPOSES

- 1.1 It is the intent of this ordinance to help preserve rural surroundings, which make Brownfield an enjoyable place to live and to establish a reasonable set of standards for future growth and progress, while providing local protection from nuisances, which are not clearly governed by State Laws.**
- 1.2 It is also the intent of this ordinance to balance the right of land users to use their land for the purposes stated, with the corresponding right of abutting and neighboring land owners to live without undue disturbance, storm water runoff, or the pollution of ground or surface water resources. This ordinance also intends to protect property values and reduce or avoid negative impact from proposed development.**
- 1.3 This is an ordinance to promote the health, safety, convenience and general welfare of the Town with controlled growth by regulating the construction of buildings in our town. Such regulations shall provide adequate areas between buildings and various rights of way, preserve the rural charm and natural beauty now associated with our town, control the density of housing and the impact of traffic, promote good design, and provide adequate public requirements.**

Article II: GENERAL PROVISIONS

- 2.1 The effective date of this Ordinance is its date of adoption by town vote; the previous land use ordinance is repealed.**
- 2.2 Should any section of this Ordinance be declared by the courts invalid it shall not invalidate any other section.**
- 2.3 This Ordinance is adopted pursuant to Home Rule powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., Sections 3001 and 4311 et seq.**

ARTICLE III: DIMENSIONAL STANDARD

- 3.1 The minimum lot size shall be two acres. Minimum lot road frontage shall be 150 feet; minimum setback from the centerline of any road shall be 55 feet except for four-rod roads which shall have a 75 foot setback from the center of the road. Back lots with zero road frontage may be improved and/or built upon provided all other requirements of this Ordinance are met and the owner of record has a minimum 50 foot wide deeded right of way to a public way. Property rear and sideline minimum setbacks shall be 25 feet. Lots with duplexes or multi-family structures on them shall have an additional 50 feet**

of road frontage for each dwelling unit over one. Lots with two or more dwelling/unit buildings shall have at least 70 feet between them at the closest point. Setback requirements pertain to all structures, both principal and accessory; however, structures already in place by June 4, 1988 may be added to only if dimensional standards are not further violated.

For non-conforming lots of record smaller than two acres, the minimum setbacks from rear and side property lines shall be 25 feet or 10 % of the lot width, whichever is less.

- 3.2 Repealed**
- 3.3 All single dwelling units shall be located on a minimum of two acres with at least one acre for a second dwelling unit. Three or more dwelling units on a single tract or parcel, which are defined as a subdivision under M.R.S.A. Title 30-A, Subsection 4401, shall be located on a minimum of two acres per dwelling unit and must comply with the Brownfield Subdivision Regulations.**
- 3.4 No more than four dwelling units shall be permitted in any one structure.**
- 3.5 Off street parking shall be provided for all dwelling units at the rate of one and one half spaces per dwelling unit.**
- 3.6 No building shall exceed 35 feet in height measured from the average finished grade of the ground at the front of a building to the highest point of the roof. Features of buildings and structures, such as chimneys, towers, ventilators, and spires may exceed 35 feet in height, but shall be set back from the nearest lot line a distance not less than the height of such features.**
- 3.7 All corner lots shall be kept free from visual obstructions for a distance of 25 feet measured along intersecting street sidelines.**
- 3.8 Any existing single lot of record may be built upon. However, all dimensional standards of this Ordinance shall be met unless a variance is obtained from the Board of Appeals.**
- 3.9 All cellar holes or foundation remnants are not “grandfathered” for the purpose of constructing a structure in such a way as to compromise any dimensional standards of this Land Use Ordinance. Further, for any structure destroyed by a natural disaster such as fire, reconstruction must begin within one year of such disaster if current standards are to be compromised.**

ARTICLE IV: GOOD NEIGHBOR STANDARDS

- 4.1 Future development approval shall take into consideration the impact on the neighbors, and where applicable; traffic access control, effect of current roads, storm water runoff, erosion control, refuse disposal and the preservation of landscape.**
- 4.2 Subdivision regulations imposed by the Planning Board on all approved subdivisions within the Town of Brownfield shall take precedence over these standards if there is a conflict.**
- 4.3 No junk yard, automobile graveyard, or area for storage of discarded machinery, vehicle, glass, paper, cordage, refuse, or other waste or discarded materials shall be maintained less than 500 feet from the nearest dwelling unit and 100 feet from all traveled ways, public or private, and all property boundary lines. Visual screening shall be required between the area where materials are being stored and any abutting residential property, public roads, and private ways. Refer to State Laws.**
- 4.4 No owner or occupant of land shall permit ruins from fire or other causes to be left, but shall remove same to ground level within one year.**
- 4.5 All waste disposal shall be accomplished in accordance with the State Subsurface Waste Disposal Rules and all other relevant State Laws and regulations.**
- 4.6 Occupied travel trailer campers and recreational vehicles containing living units are permitted only on a temporary basis for not more than four months in any twelve-month period.**
- 4.7 Repealed**
- 4.8 Commercial activities located in the owner's home are permitted providing the home occupation does not employ more than four employees of record.**
- 4.9 Commercial and industrial activities other than home occupations shall require approval by the Planning Board after a Public Hearing. Approval shall be granted providing the owner shall furnish the Planning Board with sufficient evidence for the Board to find that each of the following applicable requirements be met:**
 - a. Access to the site from existing and proposed roads is safe and adequate. The proposed use will not cause or aggravate undue traffic congestion. Off-street parking and loading facilities will accommodate anticipated business at all times.**

- b. The site design is in conformance with all flood hazard protection regulations.
 - c. Adequate provision for the transportation, storage, and disposal of any solid waste and hazardous matter has been made.
 - d. A storm water drainage system capable of handling a 25-year storm without adverse impact on adjacent properties has been designed.
 - e. An erosion and sedimentation control plan has been formulated.
 - f. There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes.
 - g. No water pollution will be caused.
 - h. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter children from entering the premises shall be provided and maintained.
 - i. Strong light or reflection of that light will not travel to residential properties or onto any public way so as to impair the vision of any motor vehicle driver.
 - j. The commercial/industrial activity will take place at least 100 feet from the nearest dwelling.
- 4.10 A commercial or industrial activity which is discontinued for a period exceeding one year, or which is superseded by a residential use, may not again be devoted to a commercial or industrial use without approval of the Planning Board after a public hearing, except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. Approval shall be granted subject to the requirements of Article 4.9, a through j.
- 4.11 An existing commercial or industrial activity may not be changed to another commercial or industrial activity without the approval of the Planning Board after a Public Hearing. Approval shall be granted subject to the requirements of Article 4.9, a through j.

ARTICLE V: ADMINISTRATION

- 5.1 This Ordinance shall be enforced by the Code Enforcement Officer (CEO).
- 5.2 No permit is required for repairs, replacement, and /or normal maintenance

not involving structural elements.

5.3 Prior to constructing any new structure or addition to an existing structure with more than 100 square feet of floor space, or prior to placing a dwelling unit or structure or addition with more than 100 square feet of floor space on a lot, a permit shall be obtained from the CEO. For any use requiring a new subsurface waste disposal system the form HHE 200 shall accompany the application.

5.4 Each application shall be accompanied by: A written description and / or drawing of the proposed building in sufficient detail to show conformance with this Ordinance; a good faith estimate of the cost of the proposed building project and a non refundable fee.

The Selectmen must annually set the amount of all fees required by this Ordinance.

5.5 Building permit fees shall be made out to the Town of Brownfield.

5.6 If approval is needed under Article IV from the Planning Board, the application shall be forwarded to the Planning Board. In all other instances the failure to act shall constitute a denial. All permits shall expire within one year of issuance if substantial construction has not commenced.

5.7 All decisions of the CEO may be appealed by any interested party to the Board of Appeals within 30 days of the CEO's decision.

5.8 No building shall be occupied until a "Certificate of Compliance" has been requested and granted by the CEO. The CEO shall make a physical inspection of the property to determine that all work has been completed and is in compliance with this Ordinance. The issuance of this Certificate shall not be evidence of any warranties or liabilities.

5.9 When any violation of any provision of this Ordinance shall be found to exist, the CEO is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town. He shall always notify the violator in writing prior to commencing legal action, and shall keep a record of any written document he issues.

5.10 Any person, firm or corporation being the owner or having control of use of any structure or premises who violates any of the provisions of this Ordinance shall upon conviction be fined not less than \$100.00 nor more than \$2500.00 for each violation. Each day such a violation is permitted to exist after notification shall constitute a separate offense. Fines shall be payable to the Town.

5.11 The Board of Appeals is established pursuant to Title 30-A, M.R.S.A. section 2691. It is made up of five members serving three-year terms. The Board shall follow the procedures set forth in section 2691, subsection 3. It shall have the authority to interpret this Ordinance and to grant only dimensional variances in accordance with the provisions set forth in Title 30-A, M.R.S.A. section 4353, subsection 4-C. The Board of Appeals shall only grant a variance from the dimensional standards of the Land Use Ordinance when strict application of the ordinance to the petitioner and the petitioners property would cause a practical difficulty and when the following conditions exist:

- A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood.**
- B. The granting of a variance will not produce any undesirable changes in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties:**
- C. The practical difficulty is not the result of action taken by the petitioner or a prior owner:**
- D. No other feasible alternative to a variance is available to the petitioner:**
- E. The granting of a variance will not unreasonably adversely affect the natural environment: and**
- F. The property is not located in whole or in part within shore land areas as described in Title 38, section 435.**

As used in this subsection, “dimensional standards” means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements. {1997, c.148 § 2(new).}

As used in this sub section, “practical difficulty” means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

The hearing shall be scheduled within 32 days of the Board receiving the appeal from the decision of the CEO. Notification of each hearing shall be sent by the applicant to the abutters, the CEO, the Selectmen and the Planning Board, and shall be posted.

5.12 The Planning Board shall conduct any hearing required by this Ordinance in accordance with those procedures set forth in State Law for Boards of Appeals in 30-A, M.R.S.A. 2691 (3) to ensure the hearings are conducted fairly. Hearings shall be scheduled within 32 days of receiving applications from the CEO. Notification of each hearing shall be sent by the applicant to the abutters, the Code Enforcement Officer, the Selectmen and the Planning Board, and shall be posted.

5.13 All approvals and denials shall be based on the terms of this Ordinance. Decisions by the Appeals Board and Planning Board shall be recorded with written findings and conclusions.

5.14 This Ordinance may be amended only by majority vote at a Town Meeting.

ARTICLE VI: NON-CONFORMANCE

GENERAL

- 6.1.1 Non-conforming structures, lots and uses that existed before the effective date of this ordinance shall be allowed to continue, subject to the provisions of this Ordinance.
- 6.1.2 Transfer of Ownership: Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- 6.3 Repair and Maintenance: This Ordinance allows without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require.

NON-CONFORMING STRUCTURES

- 6.4. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.
- 6.5. Change of Use of a Non-Conforming Structure: The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application and holding a Public Hearing determines that the new use will not have a greater adverse impact on a water body or wetland, or on the subject or adjacent properties and resources than the existing use.

ARTICLE VII: DEFINITIONS

Automobile Graveyard: A yard, field or other area used to store three (3) or more unserviceable, discarded, worn out or junked motor vehicles or discarded machinery or (parts of such vehicles and machinery in plain view).

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public for compensation for less than one week. This dwelling shall also be the residence of its operator. There shall be no

cooking in any individual guest rooms. For the purpose of this Ordinance, bed and breakfast facilities shall be considered home occupations but shall be exempt from the definition thereof.

Commercial Activities: Any activity carried out for monetary gain except home occupations and agricultural uses.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one family as an independent habitation and which contains living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing but not recreation vehicles, motel units or storage facilities.

Home Occupation: An occupation or profession which is carried on in no more than 25% of the ground area of a detached, single family dwelling unit by the full-time permanent occupant of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. The term "Home occupation" shall include both professional and personal services, within the limits on number of employees established in other sections of this Ordinance. A retail sales outlet does not qualify as a home business unless the item sold is a product of the owner's labor, (e.g. manufactured, produced, created, grown.)

Non-Conforming: A building, structure, use of land, or portion thereof, legally exists at the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

Parking space: An area of one hundred seventy five square feet, exclusive of drives or aisles, at least nine feet by eighteen feet in size, for the parking of vehicles.

Structure:

Principal: The structure in which the primary use of the lot is conducted.

Accessory: A structure which is customarily both incidental and subordinate to the principal structure or the primary use on the same lot only, including television satellite antennae.

Wetland: Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including but not limited to swamps, marshes or bogs.

Originally adopted at the 1984 Annual Town Meeting.
Amended dates: June 4, 1988; June 2, 1990; June 6, 1992; June 5, 1993;
June 4,1994;November 30,1995;June 10,1996; June 9,1997;August 10,1998
June 9, 2004; June 15, 2005, June 13, 2007 and June 11, 2008.